

Title	<b>Civil Harassment</b> (revise forms CH-100, CH-120, and CH-140)
Summary	The civil harassment forms would be revised to be clearer and more usable, and to reflect recent statutory amendments relating to free service by sheriffs and marshals of certain orders.
Source	Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Counsel to the Civil and Small Claims Advisory Committee, 415-865-7665, patrick.o'donnell@jud.ca.gov
Discussion	<p>Judicial Council forms have been available for a number of years to assist parties in civil harassment proceedings under Code of Civil Procedure section 527.6. Some modifications to the petition and orders are required by recent legislation<sup>1</sup> providing that certain civil harassment orders are to be served by sheriffs or marshals without fee for service. Some other improvements should be made at the same time.</p> <p><u>Form CH-100</u></p> <p><i>Petition for Injunction Prohibiting Harassment</i> (form CH-100) is a mandatory form that a plaintiff must use to commence a proceeding seeking an injunction to prohibit civil harassment. This form will be improved and updated in several respects.</p> <p>First, item 6 has been revised to more closely and accurately state the statutory grounds for injunctive relief under section 527.6(a)–(c) that the plaintiff is relying on in filing the petition.</p> <p>Second, the statement of the irreparable harm that the plaintiff will suffer has been relocated to item 9—that is, before the plaintiff's request for relief. Other items have been reordered.</p> <p>Third, the personal conduct order language in item 10 has been changed to state that the defendant must not "communicate by any means (including mail, fax, or e-mail)" instead of "send any messages to." This more detailed language is based on Code of Civil Procedure section 527.6(b)(3).</p> <p>Fourth, in items 16–20, headings have been added to make the petition easier to understand and complete.</p> <p>Finally, item 19 (No Fee for Service) has been added to enable the plaintiff to make the proper allegations under AB 2030 to request that</p>

<sup>1</sup> Assembly Bill 2030 (Goldberg); Stats. 2002, Ch. 1009.

the sheriff or marshal serve the court's orders without prepayment of any fee. This statute provides that there shall be no fee for service of process of a protective order, restraining order, or injunction prohibiting civil harassment provided the order is (1) based on stalking as prohibited by Penal Code section 646.9 or (2) a credible threat of violence resulting from a threat of sexual assault as defined in Evidence Code section 1036.2.<sup>2</sup> Item 19 indicates that the petitioner is requesting that there be no fee for service and that the petition satisfies the statutory requirements for this relief.

Forms CH-120 and CH-140

*Order to Show Cause and Temporary Restraining Order* (form CH-120) has been modified in several respects. For example, larger boxes have been provided in item 4 for the names of the parties and protected persons. In item 5, the words "communicate by any means (including mail, fax, or e-mail)" have been substituted for "send any messages to." Headings have been included in items 8–11 to make them easier to understand and complete. To implement AB 2030, item 11 (No Fee for Service) has been added. Similar modifications have been made to the *Order After Hearing on Petition for Injunction Prohibiting Harassment* (form CH-140).

Copies of revised forms CH-100, CH-120, and CH-140 are attached.<sup>3</sup>

Attachment

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<sup>2</sup> The statute also provides that there shall be no fee for service of similar orders under section 6222 of the Family Code prohibiting domestic violence. To implement the provisions of AB 2030 relating to civil harassment and domestic violence, a new form is proposed: *Request and Order for Free Service of Restraining Order by Law Enforcement* (form CH-101/DV-290). This new form is included and described in a separate Invitation to Comment.

<sup>3</sup> Once the proposed revisions to these forms have been determined, the general instruction form (form CH-150) will also need to be modified to incorporate and refer to the revised forms.

NAME OF PARTY OR ATTORNEY <i>(and state bar number if attorney)</i> :  ADDRESS WHERE YOU WANT MAIL SENT:  <hr/> TELEPHONE NUMBER <i>(Optional)</i> : E-MAIL ADDRESS <i>(Optional)</i> : ATTORNEY FOR <i>(Name)</i> :	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="font-size: 2em; font-weight: bold; text-align: center;">DRAFT 11 4/16/03</p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF:  DEFENDANT:	
<p style="text-align: center;"><b>PETITION FOR INJUNCTION PROHIBITING HARASSMENT</b></p> <p><input type="checkbox"/> <b>Application for Temporary Restraining Order</b></p>	CASE NUMBER:  JUDGE: DEPT.:

***(THIS IS NOT AN ORDER)***

*Read the Instructions for Lawsuits to Prohibit Harassment (form CH-150) before completing this form.*

1. Plaintiff *(name each)*:

2. ☐ OTHER PERSONS TO BE PROTECTED *(List names and ages of any family or household members who reside with plaintiff for whom protection is sought in the requested orders and their relationship to plaintiff)*:

Name

Age

Relationship to Plaintiff

3. a. Defendant *(name)*:

Sex: ☐ M ☐ F Ht.: \_\_\_\_ Wt.: \_\_\_\_ Hair Color: \_\_\_\_ Eye Color: \_\_\_\_ Race: \_\_\_\_ Age: \_\_\_\_ Date of Birth: \_\_\_\_

b. Defendant's residence address *(if known)*:

c. Defendant's work address and name of business *(if known)*:

4. This action is filed in this county because

- a. ☐ defendant resides in this county.  
b. ☐ defendant has caused physical or emotional injury to plaintiff in this county.  
c. ☐ other *(specify)*:

5. Describe whether plaintiff knows defendant and, if so, how (for example, as a landlord, tenant, neighbor, etc.):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

6. Defendant has
- a. ☐ committed acts of violence against plaintiff as described in item 8.
  - b. ☐ threatened to commit acts of violence against plaintiff as described in item 8.
  - c. ☐ engaged in a course of conduct directed at plaintiff as described in item 8. Plaintiff has suffered substantial emotional distress as a direct result of defendant's conduct described in item 8, and defendant's conduct would have caused a reasonable person to suffer substantial emotional distress.
7. Defendant's acts or conduct have seriously alarmed, annoyed, or harassed plaintiff as described in item 8, and serve no legitimate purpose.

8. **DESCRIPTION OF CONDUCT**

Describe in detail the harassment *(including the dates, who did what to whom, and any injuries)*:

☐ *(If more space is needed, check the box and add additional pages as Attachment 8.)*

9. ☐ Plaintiff will suffer great and irreparable harm before this petition can be heard in court, unless the court makes the temporary orders requested below *(specify the harm and why it will occur before the hearing)*:

☐ *(If more space is needed, check the box and add additional pages as Attachment 9.)*

**PLAINTIFF REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.**

10. ☐ **PERSONAL CONDUCT ORDERS** ☐ **To be ordered now and remain in effect until the hearing**  
 Defendant must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, communicate by any means (including mail, fax, or e-mail), stalk, destroy any personal property, disturb the peace, keep under surveillance, or block movements in public places or thoroughfares, or otherwise harass plaintiff ☐ and the other protected persons identified in item 2.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

11. ☐ **STAY-AWAY ORDERS** ☐ **To be ordered now and remain in effect until the hearing**

a. Defendant must stay at least (specify): \_\_\_\_\_ yards away from the following persons and places (the addresses of the places are optional, and you do not have to reveal them):

(1) Plaintiff ☐ and the other protected persons identified in item 2.

(2) ☐ Plaintiff's residence (address optional):

(3) ☐ Plaintiff's place of work (address optional):

(4) ☐ Plaintiff's children's school or place of child care (address optional):

(5) ☐ Plaintiff's vehicle (specify):

(6) ☐ Other (specify):

b. Granting any of the stay-away orders

(1) ☐ will **not** interfere with defendant's access to defendant's residence or place of employment.

(2) ☐ will interfere with defendant's access to defendant's residence or place of employment (explain):

12. ☐ The other protected persons (identified in item 2) should be included in the orders because:

13. ☐ **ATTORNEY FEES AND COSTS**

Plaintiff requests that defendant be ordered to pay plaintiff's attorney fees and costs as follows (specify):

14. ☐ **OTHER ORDERS** (specify other orders you are requesting):

15. Plaintiff requests that copies of orders be given to the following law enforcement agencies:

Law Enforcement Agency

Address

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

**16. PREVIOUS RESTRAINING ORDERS**

- a. ☐ Plaintiff has asked for restraining orders against the defendant before (specify county and case number if known):
- b. ☐ Defendant has asked for restraining orders against plaintiff before (specify county and case number if known):

**17. ORDERS SHORTENING TIME FOR SERVICE**

- ☐ Plaintiff requests that time for service of the *Order to Show Cause* and accompanying papers be shortened so that they may be served no less than (specify number): \_\_\_\_\_ days before the date set for the hearing. The order shortening time is needed because of the facts contained in this petition. (Add additional facts if necessary):

**18. NO FEE FOR FILING OF PETITION**

- ☐ Plaintiff is not required to pay a fee for filing this petition because the petition alleges that the defendant has inflicted or threatened violence against the plaintiff, or stalked the plaintiff, or acted or spoken in any other manner that has placed the plaintiff in reasonable fear of violence, and seeks a protective or restraining order or injunction restraining stalking or future threats of violence under Code of Civil Procedure section 527.6.

**19. NO FEE FOR SERVICE OF ORDER**

- ☐ Plaintiff requests that the sheriff or marshal serve the protective orders, restraining orders, or injunction requested in this petition on the defendant without prepayment of any fee under Government Code section 6103.2. This request is made because the orders or injunction are
- a. ☐ based upon stalking as defined in Penal Code section 646.6.
- b. ☐ based upon a credible threat of violence resulting from a threat of sexual assault, within the meaning of one or more of the definitions of the criminal offenses listed in Evidence Code section 1036.2.

(If plaintiff is eligible for a fee waiver, complete and file Application for Waiver of Court Fees and Costs (form 982(a)(17)). Also, to apply for service by the sheriff or marshal without payment of fees based on fee waiver or Government Code section 6103.2, complete and file Request for Free Service of Restraining Order by Law Enforcement (form CH-101).)

**20. ADDITIONAL RELIEF**

Plaintiff requests additional relief as may be proper.

21. Number of pages attached: \_\_\_\_\_

(If the plaintiff is represented by an attorney, the attorney's signature follows):

Date:

_____	▶	_____
(TYPE OR PRINT NAME)		(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____	▶	_____
(TYPE OR PRINT NAME)		(SIGNATURE OF PLAINTIFF)

_____	▶	_____
(TYPE OR PRINT NAME)		(SIGNATURE OF PLAINTIFF)

1. To defendant (*name*):
2. **A court hearing has been set at the time and place indicated below:**

Date:	Time:	Dept.:	Room:
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## TEMPORARY RESTRAINING ORDER

4. a. The defendant is (*name*):

Sex: ☐ M ☐ F Ht.: \_\_\_\_ Wt.: \_\_\_\_ Hair Color: \_\_\_\_ Eye Color: \_\_\_\_ Race: \_\_\_\_ Age: \_\_\_\_ Date of Birth: \_\_\_\_

b. The protected person is (*name*):

Sex: ☐ M ☐ F Date of Birth: \_\_\_\_

c. Protected family or household members who reside with the protected person:

(1) (*Name*):

Sex: ☐ M ☐ F Date of Birth: \_\_\_\_

(2) (*Name*):

Sex: ☐ M ☐ F Date of Birth: \_\_\_\_

(3) (*Name*):

Sex: ☐ M ☐ F Date of Birth: \_\_\_\_

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Code of Civil Procedure,  
§ 527.6; Penal Code,  
§ 273.6(a)

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

**UNTIL THE TIME OF HEARING, IT IS ORDERED**

5. The restrained person

- a. ☐ **shall not** contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, communicate by any means (including mail, fax, or e-mail), follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements in public places or thoroughfares of ☐ the person seeking the order  
☐ the other protected persons listed in item 4c.
- b. ☐ **shall** stay at least *(specify)*: \_\_\_\_\_ **yards** away from the following protected persons and places:  
*(The addresses of these places are optional; you do not have to provide them.)*
- (1) ☐ Person seeking the order
  - (2) ☐ The other persons listed in item 4c
  - (3) ☐ Residence of person seeking the order
  - (4) ☐ Place of work of person seeking the order
  - (5) ☐ The children's school or place of child care
  - (6) ☐ The protected persons' vehicles
  - (7) ☐ Other *(specify)*:

6. ☐ OTHER ORDERS *(specify)*:

7. **MANDATORY FIREARM RELINQUISHMENT**

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. ☐ 24 hours after issuance of this order (if restrained person is present at hearing).
- b. ☐ 24 hours after service of this order (if restrained person is not present at hearing).
- c. ☐ other *(specify)*:

The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order.

8. **SERVICE OF ORDER ON LAW ENFORCEMENT**

By the close of business on the date of this order, a copy of this order and any proof of service shall be delivered to the law enforcement agencies listed below by:

- a. ☐ plaintiff
- b. ☐ plaintiff's attorney
- c. ☐ the clerk of the court:

Law Enforcement Agency

Address



PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

**9. ORDER SHORTENING TIME**

- a. ☐ Application for an order shortening time is granted and the documents listed in b shall be personally served on the defendant no fewer than (*specify number*): \_\_\_\_\_ days before the time set for hearing.
- b. ☐ The following documents shall be personally served on defendant:
- (1) *Order to Show Cause and Temporary Restraining Order (Harassment)* (form CH-120)
  - (2) *Petition for Injunction Prohibiting Harassment* (form CH-100)
  - (3) *Blank Response to Petition for Injunction Prohibiting Harassment* (form CH-110)
  - (4) *Instructions for Lawsuits to Prohibit Harassment* (form CH-150)
  - (5) Other (*specify*):

**10. NO FEE FOR FILING**

- ☐ Filing fees for the filing of this action are duly waived.

**11. NO FEE FOR SERVICE OF ORDER**

- a. ☐ The sheriff or marshal shall serve this order on the defendant without requiring plaintiff to pay any fee.
- (1) ☐ Plaintiff qualifies for a fee waiver. Law enforcement shall serve the order without charging a fee.
- or-
- (2) ☐ The plaintiff has not qualified for a fee waiver, but the sheriff or marshal shall serve this order without prepayment of fee under Government Code section 6103.2.

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

This order is effective when made. It is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this restraining order are subject to criminal penalties.

**NOTICE REGARDING FIREARMS**

**Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.**

[SEAL]

**CLERK'S CERTIFICATE**

I certify that the foregoing *Order to Show Cause and Temporary Restraining Order (CLETS)* is a true and correct copy of the original on file in the court.

Date:

Clerk, by \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and state bar number, if attorney):</i>  ADDRESS WHERE YOU WANT MAIL SENT:  TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>   <div style="font-size: 2em; font-weight: bold; margin: 20px 0;">DRAFT 7</div> <div style="font-size: 2em; font-weight: bold; margin: 0 0 20px 0;">4/14/03</div>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:  Judge: Dept.:
PLAINTIFF:  DEFENDANT:	
<b>ORDER AFTER HEARING ON PETITION FOR INJUNCTION PROHIBITING HARASSMENT (CLETS)</b>	

1. THIS ORDER, EXCEPT FOR AWARD OF ATTORNEY FEES AND COSTS, SHALL EXPIRE AT MIDNIGHT ON  
*(date):* \_\_\_\_\_ IF NO DATE IS PRESENT, THIS ORDER EXPIRES 3 YEARS FROM THE DATE OF ISSUANCE.
2. This proceeding came on for hearing as follows:

Date: _____	Time: _____	Dept.: _____	Room: _____
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3. Judicial officer *(name)*: \_\_\_\_\_ ☐ Temporary judge
4. a. ☐ Plaintiff present ☐ Attorney present *(name)*: \_\_\_\_\_  
 b. ☐ Defendant present ☐ Attorney present *(name)*: \_\_\_\_\_

#### THE COURT FINDS

5. a. The defendant is *(name)*: \_\_\_\_\_  
 Sex: ☐ M ☐ F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
- b. The protected person is *(name)*: \_\_\_\_\_  
 Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_
- c. Protected family or household members who reside with the protected person are:
- (1) *(Name)*: \_\_\_\_\_  
 Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_
- (2) *(Name)*: \_\_\_\_\_  
 Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_
- (3) *(Name)*: \_\_\_\_\_  
 Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_

☐ Continued on Attachment 5c.

PLAINTIFF (Name):  DEFENDANT (Name):	CASE NUMBER:
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6. After the hearing on the petition, **IT IS ORDERED THAT DEFENDANT**

- a. **shall not** contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, communicate by any means (including mail, fax, or e-mail), follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements in public places or thoroughfares of ☐ the person seeking the order  
☐ the other protected persons listed in item 5c.

- b. ☐ **shall** stay at least (*specify*): \_\_\_\_\_ yards away from the following protected persons and places:

- (1) ☐ Person seeking the order
- (2) ☐ The other protected persons listed in item 5c
- (3) ☐ Residence of person seeking the order
- (4) ☐ Place of work of person seeking the order
- (5) ☐ The children's school or place of child care
- (6) ☐ The protected persons' vehicles
- (7) ☐ Other (*specify*):

7. ☐ Other orders (*specify*):

8. **MANDATORY FIREARM RELINQUISHMENT**

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. ☐ 24 hours after issuance of this order (if restrained person is present at hearing).
- b. ☐ 24 hours after service of this order (if restrained person is not present at hearing).
- c. ☐ other (*specify*):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

**9. SERVICE OF ORDER ON LAW ENFORCEMENT**

By the close of business on the date of this order, a copy of this order and any proof of service shall be delivered to the law enforcement agencies listed below by:

- a. ☐ plaintiff
- b. ☐ plaintiff's attorney
- c. ☐ the clerk of the court:

Law Enforcement Agency

Address

**10. SERVICE OF ORDER ON DEFENDANT**

Plaintiff must cause a copy of this order to be served on the defendant.

**11. NO FEE FOR SERVICE OF ORDER**

☐ The sheriff or marshal shall serve this order on the defendant without requiring plaintiff to pay any fee.

(a) ☐ Plaintiff qualifies for a fee waiver. Law enforcement shall serve the order without charging a fee.

**-or-**

(b) ☐ The plaintiff has not qualified for a fee waiver, but the sheriff or marshal shall serve this order without prepayment of fee, under Government Code section 6103.2.

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this restraining order are subject to criminal penalties.

**NOTICE REGARDING FIREARMS**

**Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.**

[SEAL]

**CLERK'S CERTIFICATE**

I certify that the foregoing *Order After Hearing on Petition for Injunction Prohibiting Harassment (CLETS)* is a true and correct copy of the original on file in the court.

Date:

Clerk, by \_\_\_\_\_, Deputy